IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 06.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Writ Appeal No.1687 of 2002

R.Jayarani .. Appellant/Petitioner

Vs.

1. The State of Tamilnadu
   rep.by the Commissioner and
   Secretary to Government
   Housing and Urban Development department,
   Fort St.George, Chennai 9.

2. The Special Tahsildar (L.A)
   Ellis Nagar Scheme,
   Madurai.

3. The Executive Engineer and
   Administrative Officer,
   Ellis Nagar Scheme,
   Madurai ... Respondents

Writ appeal filed under Clause 15 of the Letters Patent against the order dated 11.6.2001 in W.P.No.3673 of 1994 presented to this Court under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 1st Respondent herein in G.O.Ms.No.310 Housing and Urban Development dated 17.2.1979 and published in the Supplement to Part II Section 2 of the Tamil Nadu Government Gazette dated 7.3.1979, being the notification under Section 4(1) of the Land Acquisition Act and relating to the petitioner's lands comprised in Survey No.4/4B in Ponmeni Village, Madurai and quash the same.

For Appellants : Mr.T.Srinivasaraghavan

For Respondents : Mr.Kasikumar for
Mr.D.Veerasekaran for R2 & R3

Mr.C.Thirumaran, G.A.for R1

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above Writ Appeal has been filed against the order of the learned Single Judge dated 11.6.2001 made in W.P.No.3673 of 1994 in and by which the learned Single Judge dismissed the writ petition on the ground of delay and laches.

2. Heard learned counsel for the appellant as well as respondents.

3. In the light of the order to be passed hereunder, it is unnecessary to refer all the factual details. It is not in dispute that the notification under Section 4(1) of the Tamil Nadu Land Acquisition Act in so far as the lands of the petitioner/appellant came to be issued on 17.2.1979 and declaration under Section 6 of the said Act came to be issued on 15.10.1980. It is also brought to our notice that award has been passed on 25.3.1982 and possession has been taken on 22.11.1982. Admittedly the petitioner has filed the writ petition only in 1994, which was dismissed by the learned Single Judge on 11.6.2001. Learned Judge, after finding that the petitioner came to this court after a period of 15 years from the date of 4(1) notification and 12 years from the date of passing of the award, dismissed the writ petition.

4. Mr.T.Srinivasaraghavan, learned counsel appearing for the appellant by drawing our attention to various earlier decisions of this Court submitted that in view of the fact that declaration under Section 6 of the Act in all these cases had been quashed by this Court even on 15.7.1982, the respondents cannot proceed with the 4 (1) notification issued in the year 1979. He further contended that after quashing of the declaration under Section 6, without a fresh 4(1) notification, the respondents are not entitled to proceed further. In addition to the contention, he pointed out that some orders were passed by the learned Single Judge of this Court, granting relief in favour of the petitioners therein.

5. Admittedly, in none of the orders, the petitioner was a party. Further, it is also not his case that at the instance of the petitioner, declaration under Section 6 was quashed by this Court. In this regard, learned counsel appearing for the respondents heavily relied on the decision of the Apex Court in AIR1997 SC 2564 (ABHEY RAM V. UNION OF INDIA), wherein their Lordships have held that "in view of the fact that the notification under Section 4(1) is a composite one and equally the declaration under Section 6 is also a composite one, unless the declaration under Section 6 is quashed in toto, it does not operate as if that the entire declaration requires to be quashed. It is seen that the appellants had not filed any objections to the notice issued under Section 5A."

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

6. In view of the above and in view of the fact that admittedly, the petitioner/appellant has not challenged the declaration under Section 6 but approached this Court only after 12 years, we are of the view that the orders relied on by the learned counsel for the appellant are not either applicable nor helpful to his case. On the other hand, the Courts have taken the view that unless the acquisition proceeding is challenged within a reasonable time, he/she is not entitled to question the same, after considerable delay.

7. In the present case, we have already referred to the fact that if we consider the notification under Section 4(1), the writ petition has been filed after 15 years and if we take note of the award, the writ petition has been filed after 12 years. These aspects have been considered by the learned Single Judge and dismissed the writ petition. It is also relevant to note that after passing of the award dated 25.3.1982, possession was taken as early as 22.11.1982 and according to the respondents, the land in question is vest with the Government. In such circumstances and in the light of the factual details, we are in agreement with the conclusion arrived by the learned Single Judge and unable to accept the argument of the learned counsel for the appellant.

8. Accordingly, the writ appeal fails and the same is dismissed. No costs.

ajr

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Commissioner and
   Secretary to Government
   Housing and Urban Development department,
   Fort St.George, Chennai 9.

2. The Special Tahsildar (L.A)
   Ellis Nagar Scheme, Madurai.

3. The Executive Engineer and
   Administrative Officer,
   Ellis Nagar Scheme, Madurai

1 cc to the Government Pleader, SR.29136
ng (co)

dv/10.7.06

WEB COPY
https://hcservices.ecourts.gov.in/hcservices/